



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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PIEDMONT REGIONAL OFFICE

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Robert G. Burnley
Director

Gerard Seeley, Jr.
Piedmont Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Sims Group USA Corporation Registration No. 50728

SECTION A: Purpose

This is a Consent Order issued under the Authority of Va. Code § 10.1-1309 and 10.1-1316 between the State Air Pollution Control Board and Sims Group USA Corporation, for the purpose of resolving certain alleged violations of environmental laws and regulations and to provide for the payment of civil charges.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. "Department" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Regulations" mean the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution 9 VAC 5-10-10 *et seq.*
7. "Sims Group USA " means Sims Group USA Corporation formerly named Simsmetal USA Corporation certified to do business in Virginia and its affiliates, partners,

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subsidiaries, and parents.

8. "Facility" means the Sims Group USA Corporation located at 3220 Deepwater Terminal Road, Richmond, Virginia.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Permit" means the Minor New Source Review Permit issued to Simsmetal USA Corporation on April 1, 1998.

SECTION C: Findings of Facts and Conclusions of Law

1. Sims Group USA operates a metal recycling facility located at 3220 Deepwater Terminal Road, Richmond, Virginia. This facility is the subject of the Minor New Source Review Permit issued on April 1, 1998.
2. A site investigation resulting from a complaint was performed at Sims Group USA Corporation (Sims Group USA) on March 3, 2004.
3. On March 24, 2004 the Department of Environmental Quality, Piedmont Regional Office issued a Notice of Violation for the following potential violations:
 - Failure to maintain and operate the cyclone so as to minimize air emissions. (April 1, 1998 Permit Conditions 3 and 18)(9 VAC 5-50-20 E.);
 - Failure to maintain and operate the flow meter so as to minimize air emissions. (April 1, 1998 Permit Conditions 3 and 18)(9 VAC 5-50-20 E.);
 - Failure to take reasonable precautions to prevent particulate matter from becoming airborne. (April 1, 1998 Permit Conditions 4 and 18)(9 VAC 5-50-20 E. and 9 VAC 5-50-90)
4. On April 09, 2004, Sims Group USA submitted a letter describing the corrective actions that have or will be instituted to respond to potential violations contained in the Notice of Violation dated March 24, 2004.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1316 C, orders Sims Group USA, and Sims Group USA Corporation agrees, to perform the actions described in Appendix A of this Order. In addition the Board orders Sims Group USA Corporation, and Sims Group USA

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Corporation voluntarily agrees, to pay a civil charge of \$6,290.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be by check, payable to "Treasurer of Virginia", and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Payment shall include the Federal Tax Identification Number of the facility.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Sims Group USA, for good cause shown by Sims Group USA, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those alleged violations specifically identified herein including those matters addressed in the Notice of Violation issued to Sims Group USA on March 24, 2004. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For the purposes of this Order and subsequent actions with respect to this Order, Sims Group USA admits the jurisdictional allegations but does not admit factual findings and conclusions of law contained herein.
4. Sims Group USA consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Sims Group USA declares it has received fair and due process under the Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Sims Group USA to comply with any of the terms of this Order shall constitute

a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Sims Group USA shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Sims Group USA must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Sims Group USA shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.
9. Failure to so notify the Regional Director within 24 business hours of learning of any condition listed above, which the Parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.
10. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
11. This Order shall become effective upon execution by both the Director or his designee and Sims Group USA. Notwithstanding the foregoing, Sims Group USA agrees to be bound by any compliance date which precedes the effective date of this Order.
12. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Sims Group USA. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Sims Group USA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, standard, or requirement otherwise applicable.
13. By its signature below, Sims Group USA Corporation voluntarily agrees to the issuance of this Order.

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And it is so ORDERED this day of July 26, 2004.


Robert G. Burnley, Director
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by Sims Group USA Corporation.

Date: July 19, 2004


Rod Colton

State of Virginia

City/County of Chesapeake

The foregoing instrument was acknowledged before me this 19th day of July

2004, by Rod Colton, General Manager on behalf of Sims Group
USA Corporation, Incorporated

2/29/2008
My commission expires:
Date


Notary Public

Appendix A

Sims Group USA Corporation, Incorporated shall:

1. Within 30 days from the effective date of this Order Sims Group USA shall:
 - a. Submit, to the Department for approval, a schedule to include but not limited to milestone dates for installation, repair, maintenance and implementation of the corrective actions contained in their April 09, 2004 letter, which is attached to this Order and incorporated in this Order by reference.
 - b. Submit to the Department for approval a test protocol for testing required in Appendix A, Condition 3 of this Order.
2. Within 60 days from the effective date of this Order Sims Group USA shall:
 - a. Submit a schedule for implementation of the selected control strategy for the open conveyors.
 - b. Complete the corrective actions for the shredder cyclone and venturi scrubber required by condition number 3 and the cascade cleaning chamber cyclone contained in condition number 4 of the April 01, 2004 permit.
3. Within 30 days from the completion of Appendix A, Condition 2.b. of this Order Sims Group USA shall test to demonstrate compliance with the emission limitations contained in condition numbers 8 and 9 of the April 01, 2004 permit.
4. Within 45 days from the completion of Appendix A, Condition 3 of this Order Sims Group USA shall submit the result of the testing required in Appendix A, Condition 3 of this Order.